

# **LAHONTAN REGIONAL WATER QUALITY CONTROL BOARD**

**MEETING OF JULY 9 AND 10, 2003**

**South Lake Tahoe**

## **FACT SHEET**

**ITEM: XX**

**SUBJECT: REVISED WASTE DISCHARGE REQUIREMENTS AND NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM GENERAL PERMIT FOR LIMITED THREAT DISCHARGES TO SURFACE WATERS GENERAL PERMIT CAG996001**

### **BACKGROUND**

In 1972, the federal Water Pollution Control Act, also referred to as the federal Clean Water Act (CWA), was amended to provide that the discharge of pollutants to waters of the United States from any point source is prohibited, unless the discharge is in compliance with a National Pollutant Discharge Elimination System (NPDES) permit. The federal regulations allow authorized states to issue either general permits or individual permits to regulate discharges of pollutants to water of the United States.

Certain dischargers often need to discharge water containing minor amounts of pollutants that pose little or no threat to water quality and the environment. These limited threat discharges do not contain significant quantities of pollutants and the pollutant concentrations in the discharge are not authorized if they would (1) cause, (2) have a reasonable potential to cause, or (3) contribute to an excursion above any applicable federal water quality criterion promulgated by the USEPA pursuant to the CWA Section 303, or water quality objective adopted by the Lahontan Regional Water Quality Control Board (Regional Board) or the State Water Resources Control Board (SWRCB), including prohibitions of discharge for the receiving waters in the Lahontan Region.

On June 4, 1998, the Regional Board issued a General Permit for limited threat discharges to surface waters (Board Order 6-98-36). That General Permit was limited to discharges from pump/well testing and dewatering projects and has a June 4, 2003 expiration date.

In accordance with Title 40, Code of Federal Regulation (CFR), the Regional Board must meet general program requirements prior to the re-issuance and adoption of a general NPDES permit. General program requirements include preparing a draft General Permit, public noticing, allowing a public comment period, and conducting a public hearing. To meet these requirements, the Regional Board prepared a draft (tentative) General Permit. The draft General Permit was sent to interested parties on February 28, 2003 with a request for comments. A public hearing to receive testimony from interested parties is scheduled for July 9, 2003. The Notice of Public Hearing was sent to the interested party list at the same time the proposed

General Permit was sent. A public hearing notice was also published in major newspapers of record throughout the Lahontan Region forty-five days before the public hearing.

### **CALIFORNIA TOXICS RULE REQUIREMENTS**

This General Permit reissues the 1998 permit with significant modifications. The USEPA promulgated the California Toxics Rule (CTR) in May 2000. The CTR, which is codified in 40 CFR Section 131.38, establishes numeric criteria for priority toxic pollutants for California. The CTR and National Toxics Rule (NTR) criteria and water quality objectives for priority pollutants in state-adopted water quality control plans, together with designated beneficial uses in those plans, serve as priority pollutant standards for the state. Concurrently with the CTR adoption, the SWRCB adopted a *Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of the California* (State Implementation Plan, or SIP).

The SIP establishes procedures for selecting priority pollutants requiring water quality-based effluent limitations (SIP Section 1.3) and for calculating the limits (SIP Section 1.4). Water quality monitoring and high quality laboratory data with the reporting limits required in the SIP, is required for all priority pollutants. Existing data for a particular pollutant in a specific water source maybe be utilized if the data is representative and of the quality required in the SIP.

The SIP also authorizes the Regional Board to grant categorical exceptions from SIP provisions if the discharge is short-term or seasonal and carried out to comply with the federal Safe Drinking Water Act or the California Health and Safety Code. This revised General Permit proposes a categorical exception from the SIP provisions for the selection of priority pollutants requiring limits (SIP Section 1.3) and the calculation of numeric limitations (SIP Section 1.4) for certain categories of discharge (e.g., hydrostatic testing of potable water conveyances, water treatment plant maintenance and fire hydrant testing and flushing). Discharge categories g, h, and i in Finding No. 10 of the General Permit may meet the conditions for a categorical exception for priority pollutants criteria / objectives. Other discharges regulated under the General Permit must comply fully with the SIP.

The General Permit does not contain numeric effluent limitations for toxic pollutants. Adopting the categorical exception will not compromise the protection of surface water beneficial uses for several reasons. First, the General Permit requires all Dischargers to implement Best Management Practices (BMPs), best available technology (BAT) economically achievable and best conventional pollutant control technology (BCT) to reduce pollutants to ensure that the discharge will not violate water quality standards. Second, the General Permit requires monitoring the constituents of concern and timely reporting to ensure that the discharge is in compliance with the General Permit. Third, any discharges covered under the categorical exception for priority pollutants must be short-term (e.g., days or hours) and certification that the beneficial uses have been restored is required at the completion of the project, or term.

## **CALIFORNIA ENVIRONMENTAL QUALITY ACT**

The action to adopt a general NPDES permit is exempt from provisions of Chapter 3 of the California Environmental Quality Act (CEQA, Public Resources Code Section 21000, et seq.), in accordance with Section 13389 of the California Water Code. However, Regional Board action on a categorical exception to SIP requirements is subject to CEQA (SIP Section 5.3). For the purpose of adopting a categorical exception to the SIP, the Regional Board is the lead agency and must provide all necessary documentation. A Mitigated Negative Declaration for the action to adopt a categorical exception to SIP requirements for certain categories of discharge was prepared in compliance with CEQA and circulated for public review. Comments received have been considered in the final draft of the General Permit.

### **GENERAL CRITERIA**

This General Permit is intended to cover limited threat discharges of pollutants to surface waters from various discharge categories. To be covered by this General Permit, discharges must meet the following criteria:

- a) Pollutant concentrations in the discharge do not (1) cause, (2) have a reasonable potential to cause, or (3) contribute to an excursion above any applicable federal water quality criterion promulgated by the USEPA pursuant to the CWA Section 303, or any water quality objective adopted by the Regional Board or the SWRCB, including prohibitions of discharge for the receiving waters in the Lahontan Region.
- b) The discharge does not include water added for the purpose of diluting pollutant concentrations.
- c) Pollutant concentrations in the discharge will not cause or contribute to degradation of water quality or impair beneficial uses of receiving waters.
- d) The discharge does not cause acute or chronic toxicity in the receiving waters.
- e) Discharge to land is not a practical alternative, based on information provided by the discharger.

### **EFFLUENT LIMITATIONS AND RECEIVING WATER LIMITATIONS**

NPDES permits for discharges to surface water must meet all applicable provisions of Sections 301 and 402 of the CWA. These provisions require controls that utilize best available BAT/BCT to reduce pollutants, and any more stringent controls necessary to meet water quality standards.

It is not practical to establish numeric effluent limitations for pollutants in the limited threat discharges authorized by this General Permit. Therefore, the effluent limitations contained in this General Permit are narrative and include the requirement to implement appropriate Best Management Practices (BMPs). The BMPs, which may include passive treatment of discharges to surface waters, constitute BAT and BCT and are required to achieve compliance with water

quality standards. Receiving water requirements must be met by the Discharger and are stated as either numerical or narrative requirements.

Dischargers are expected to be able to show that there are no feasible alternatives to discharging to surface waters and that measures, such as BMPs, have been implemented or will be implemented to minimize potential impacts to water quality and the environment.

### **OBTAINING PERMIT AUTHORIZATION**

To obtain authorization for discharges under this General Permit, the owner or developer responsible for the project must submit a NOI (General Permit Attachment D) with an appropriate fee, and a BMP Plan (General Permit Attachment E) to control the discharge. The owner or developer shall be authorized to discharge under the terms and conditions of this General Permit only after receiving a written Notice of Applicability (NOA) from the Regional Board Executive Officer, or his or her designee. The NOI, fee, and BMP Plan shall be submitted to:

**Lahontan Regional Water Quality Control Board  
2501 Lake Tahoe Blvd.  
South Lake Tahoe, CA 96150**

**OR**

**Lahontan Regional Water Quality Control Board  
15428 Civic Drive, Suite 100  
Victorville, CA 92392**

It is illegal to discharge pollutants to surface waters without an NPDES permit. Facilities that do not obtain coverage under this or another General Permit or under an individual NPDES permit for discharge to surface waters are in violation of the CWA and the California Water Code. There are substantial penalties, which can be pursued by the SWRCB, Regional Board, USEPA, or by private citizens for violation of these laws.